

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,549

IN THE MATTER OF:

Served September 4, 2008

Application of MCCLLOUD LIMOUSINE, ) Case No. AP-2008-052  
INC., to Acquire Certificate )  
No. 1128 from MCCLLOUD'S )  
PROFESSIONAL LIMOUSINE SERVICE, )  
INC. )

MCCLLOUD'S PROFESSIONAL LIMOUSINE ) Case No. MP-2008-081  
SERVICE, INC., Suspension and )  
Investigation of Revocation of )  
Certificate No. 1128 )

By application accepted for filing March 10, 2008, applicant, McCloud Limousine, Inc., (MCI), a Maryland corporation, seeks Commission approval to acquire Certificate No. 1128 from McCloud's Professional Limousine Service, Inc., (MPLSI), a Maryland Corporation. Both corporations are controlled by Miguel L. McCloud. The application is unopposed.

Under Article XI, Section 11(a), of the Compact, a person may not transfer a certificate of authority unless the Commission approves the transfer as consistent with the public interest. The public interest analysis focuses on the acquiring party's fitness.<sup>1</sup>

Applicant proposes commencing operations with one limousine and one sedan. Applicant proposes operating under a tariff containing rates for mileage and/or hourly priced transportation.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire. Normally, such evidence would establish applicant's fitness,<sup>2</sup> but in this case applicant's fitness is in doubt because applicant's president,

---

<sup>1</sup> In re Quality Med. Supplies LLC, t/a F & J Healthcare Servs., & Tingem Health Care Servs. Inc., No. AP-04-25, Order No. 8033 (May 27, 2004).

<sup>2</sup> In re Quiana Tours, Inc & William E. Gillison, t/a Quiana Tours, No. AP-02-140, Order No. 7316 (July 17, 2003).

Mr. McCloud, has permitted applicant's affiliate, MPLSI, to remain in violation of Commission regulations since April 16, 2008.

Certificate No. 1128 has been suspended since April 16, 2008, for MPLSI's willful failure to comply with the insurance endorsement requirements specified in Regulation No. 58. Order No. 11,274, served April 16, 2008, noted that Certificate No. 1128 would be subject to revocation if MPLSI failed to file the necessary WMATC Insurance Endorsement(s) and pay a \$50 late fee within thirty days.<sup>3</sup> MPLSI paid the late fee but has yet to file the necessary WMATC Insurance Endorsement(s).

When a person controlling an applicant has a record of regulatory violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of an applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether sincere efforts have been made to correct past mistakes, and (5) whether a willingness and ability to comport with the Compact and rules and regulations thereunder in the future has been demonstrated.<sup>4</sup>

The Commission approved a transfer of assets in a case similar to this one in part on the condition that applicant's controlling shareholder verify timely cessation of operations.<sup>5</sup> The Commission approved a transfer of authority in another similar case in part on the condition that applicant and its president, having established renewed compliance with Commission regulations, serve a one-year period of probation.<sup>6</sup>

Based on the evidence in this record, and in consideration of the verification requirement and terms of probation prescribed herein, the Commission finds applicant to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements and, therefore, that the transfer of Certificate No. 1128 to applicant is consistent with the public interest. Certificate No. 1128 shall stand revoked, however, in the event applicant does not timely satisfy the conditions of issuance.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1128 shall be reissued to McCloud Limousine, Inc., 712 Haack Place, Upper Marlboro, MD 20774.

---

<sup>3</sup> In re McCloud's Prof. Limo. Serv., Inc., No. MP-08-081, Order No. 11,274 (Apr. 16, 2008).

<sup>4</sup> Order No. 7316 at 2-3.

<sup>5</sup> See In re Haymarket Transp., Inc., No. AP-98-35, Order No. 5427 (Oct. 1, 1998) (requiring verification of compliance with cease and desist order).

<sup>6</sup> See Order No. 7316 (imposing one year probation).

2. That Certificate No. 1128 shall remain suspended until it has been reissued or stands revoked in accordance with this order.

3. That applicant is hereby directed to present its revenue vehicle(s) for inspection and file the following documents within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; (f) written verification that McCloud's Professional Limousine Service, Inc., timely ceased operating in the Metropolitan District as of April 16, 2008, and that neither MPLSI nor applicant has operated in the Metropolitan District since then; and (g) the original Certificate No. 1128 issued July 21, 2006.

4. That applicant and its president/CEO, Miguel L. McCloud, shall be placed on probation for a period of one year commencing with the reissuance of Certificate No. 1128 in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant or its president/CEO during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature of the violation.

5. That this application shall stand denied and Certificate No. 1128 shall stand revoked upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.  
Executive Director